

When Color Should Count

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Ward Connerly is the black businessman who spearheaded the successful campaign for Proposition 209, a 1996 ballot initiative that effectively ended public affirmative action in the state of California. He is back in the news again, this time promoting what he calls the Racial Privacy Initiative. Asking citizens to check a "race" box on a school or government form forces Americans to pay attention to immutable and meaningless characteristics like skin color and ancestry, Mr. Connerly argues. His basic premise is that people otherwise disinclined to do so ought not be compelled by government to put themselves into a racial category.

This argument, which at first blush looks like the logical extension of the campaign against racial preferences, will appeal to many voters. The initiative, submitted with 980,000 signatures, has already qualified to be on the March 2004 statewide ballot.

Yet, despite its superficial appeal, race-blindness is an ideal at war with itself: Strict adherence to this principle would impede its own enforcement and inhibit addressing the harmful effects of its own past violation. Fair employment laws are most effectively policed when courts and government agents can compare the racial composition of a company's work force with the racial demography of qualified prospective workers in that company's local labor market. But doing so requires the collection of data that classify individuals by race. And as the Supreme Court has acknowledged, rectifying the effects of past discrimination can sometimes be a government interest compelling enough to justify the use of racial preferences.

The trouble is that race-blindness is a narrow, technical aspiration and not a genuinely moral end. In matters of race, the most fundamental moral question is not about blindness at all. It is about what I call "neutrality." Race-blindness means having no information about a person's race, while race-neutrality means having no interest in the racial aspect of a social disparity. Blindness asks about what a public decision-maker can know; neutrality deals with the goals that a decision-maker can rightly pursue. Mr. Connerly and his opponents are arguing over whether we should be race-blind. But a question of far greater consequence is whether we should be race-neutral. Although a majority of voters may find race-blindness to be an attractive ideal, I believe many fewer are prepared to endorse race-neutrality because, in light of our history, race-neutrality is not a very attractive moral stance.

The single-minded adherent of race-neutrality would see no problem in the fact that black Americans are vastly overrepresented among those going to prison and among those infected with the AIDS virus. If one begins seeing the race of an inmate or AIDS victim as a matter of no moral relevance, one might conclude that we should pay no heed to the racial dimension of such problems. But racial inequality in the United States is a problem that profoundly affects the entire society regardless of whether it is due to current racial

discrimination. I believe a great many Americans, even those who firmly oppose racial preferences, would agree with me about this. They want race-blind law enforcement, but they also worry that some 13.4 percent of black males age 25 to 29 were in prison or jail in 2001, compared with 1.8 percent of whites in the same age group. They endorse the race-blind provision of health services, but are disturbed to learn that blacks, about one-ninth of the population, were over one-third of Americans living with AIDS in 1999. They may want to use non-discriminatory college admissions rules, but are not indifferent to the racial composition of the entering class.

The distinction between blindness and neutrality becomes clear when one considers that often a choice must be made between alternative race-blind policies, some of which ameliorate and others that exacerbate the social disadvantage of blacks. While a race-blind public policy explicitly intended to harm blacks would never be acceptable, race-blind policies adopted for the purpose of reducing racial inequality are commonplace and well accepted.

For example, to have city council members run for office from a number of nonracially drawn neighborhood districts, instead of electing them at-large, is to choose a race-blind electoral system. Yet this system could well enhance racial minority representation in city hall by allowing minority neighborhood residents to vote for someone from their district. Similarly, when the United States Court of Appeals for the Fifth Circuit forbade the practice of affirmative action at the University of Texas, the Texas Legislature responded by guaranteeing a place at any public university to the top 10 percent of every high school class in the state. This 10 percent rule mainly benefits students at less competitive high schools -- in large part, black and Hispanic students, and certainly this was the intent. Both of these policies respect race-blindness while intentionally using a proxy for race to promote the higher goal of racial equality. And neither policy has been legally or politically controversial.

These examples show why the key moral questions are most often about neutrality, not blindness: on the whole, most Americans still see reversing the effects of a history of immoral race relations as a good thing and perpetuating those effects as a bad thing. Once it is acknowledged that racial disparities are rightly a matter of public concern, we can see that the most transparent, effective and efficient means of dealing with these disparities will often entail making use of racial information. We should be willing to allow for modest violations of race blindness that yield significant reductions in racial inequality as a morally acceptable tradeoff.

Unfortunately, the failure to make a distinction between blindness and neutrality has led to doubts about the validity of discussing social justice issues in racial terms at all. Whatever the racial privacy crusaders may intend, and however desirable in the abstract their colorblind ideal may be, their campaign runs the risk of devaluing our collective and still unfinished efforts to achieve greater equality. Fervency for race-blindness has left some observers simply blind to a basic fact of American public life: We have pressing moral dilemmas in our society that can be fully addressed only when viewed against the backdrop of our racial history.

Drawing (Jim Frazier)